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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-fourth session

SUMMARY RECORD OF THE 637th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 30 May 2000, at 10 a.m.

Chairperson: Mr. RABAH

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GE.00-42548 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Djibouti (CRC/C/8/Add.39; CRC/C/Q/DJI/1; written replies of the Government of Djibouti to the questions raised in the list of issues (document without a symbol distributed in the meeting room in French only))

1. At the invitation of the Chairperson, Mr. Abdou (Djibouti) took his place at the Committee table.

2. Mr. ABDOU (Djibouti) said that his country had been one of the first in Africa to ratify the Convention on the Rights of the Child, in December 1990, and that, in so doing, it had committed itself to ensuring that children enjoyed their rights under the Convention and had undertaken a number of measures to that end. Some legal texts had been revised and a provision had been introduced in the new Penal Code by which the practice of female genital mutilation was prohibited and punished. Discussions had been held on child labour, the child's right to education, early marriages, sexual exploitation and the protection of children whose safety or physical or psychological development were threatened by the action of family members or friends.

3. Efforts had been made, in cooperation with the United Nations Children's Fund (UNICEF) to promote the Convention and, in that connection, a manual incorporating its provisions and emphasizing its broad lines had been written to help schoolteachers prepare lessons on it. In addition, radio programmes in the country's four languages (Afar, Arabic, Somali and French) had been designed for the advancement and protection of young girls. Unfortunately, Djibouti lacked the necessary resources and faced many obstacles to progress in the field of human rights, mainly because of the economic crisis, the current structural adjustment programme and the prevailing mentality. Nevertheless, the Ministry of Justice stood firm in its decision to improve legal and administrative structures which should serve to promote fundamental rights, especially children's rights.

4. Ms. OUEDRAOGO said that the Committee on the Rights of the Child had not received Djibouti's core document and, therefore, did not have general information about the country which would have enabled it to understand better the context in which the Convention was implemented. Djibouti's initial report had been prepared in keeping with the Committee's guidelines but the information supplied was vague in parts, incomplete or drawn directly from UNICEF's analytical country report. There was scant information on the way in which the report had been prepared and on the content and implementation of laws, Government policies, institutional structures and the problems encountered. Lastly, the report was not sufficiently critical and contained virtually no statistical data.

5. Furthermore, at the time of ratifying the Convention, the Djibouti Government had stated that it would not be bound by provisions and articles that were incompatible with its religion and traditional values, seemingly with the aim of stripping some of the Convention's provisions of their juridical effects. Even though no particular provision was mentioned, the statement in effect constituted a vague reservation to all the rights enshrined in the Convention. Furthermore,

the reservation rendered the Convention subject to national laws, culture and religion and limited the commitments undertaken by the Government, halting any development of national legislation. How had the Government reacted to the objections expressed by various States to the reservation? Had it considered withdrawing it? She wondered whether the delegation could provide examples of articles or provisions of the Convention which would justify retaining the reservation.

6. With regard to general measures for the implementation of the Convention's provisions, no information had been provided on how the children's parliament functioned, the size of the membership and its composition. Furthermore, how successful had the Government been in allocating sufficient resources to satisfy basic health and education needs? She wondered whether the intersectoral committee on follow-up of the World Summit for Children, established in 1991, was still in operation. Who was in charge of it and what was the size of its budget? Did it play a coordinating role in children's affairs? She asked whether it was made up of the bodies and agencies mentioned in the reply to question 3 of the list of issues, and why the Ministry of Finance was not included in the list.

7. Ms. MOKHUANE inquired about the mandate of the intersectoral committee and the governmental or non-governmental bodies which had participated in the preparation of the initial report. What were the priority actions, and was there a mechanism for monitoring implementation of the Convention? She would like to know why the State party had not ratified ILO Convention No. 138 concerning minimum age for admission to employment. Lastly, at what age could children receive medical advice without the consent or presence of their parents and what was the minimum age of sexual consent?

8. Ms. RILANTONO said that the declaration of the Djiboutian Day of the Child was a positive step and asked about the progress of the plan of action and which non-governmental organizations (NGOs) worked alongside governmental bodies in that respect. The State party had rightly decided to raise the minimum age of employment from 14 to 16. She wondered what specific effects had resulted from the measure and whether it had modified school attendance figures. Did the State party intend to ratify ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour?

9. Mr. FULCI said that the declaration made by Djibouti on ratifying the Convention was a major obstacle to the latter's implementation. Five States had officially submitted objections worded in fairly similar terms. One, for example, had declared that a reservation by which a State party limited its responsibilities under the Convention by invoking general principles underlying its domestic law could create doubt as to the commitment of that State party to the aims of the Convention as well as undermine international treaty law. The five States had also expressed serious concerns regarding the implementation of the Convention. Had Djibouti established a committee to examine the matter following those objections and, if so, what had been the outcome?

10. International cooperation was not mentioned in the report but he wondered how it facilitated the implementation of the Convention. Initiatives such as the Djiboutian Day of the

Child or the manual which included provisions of the Convention were particularly useful in disseminating information about the Convention; what was the role of the media in that regard, and how well informed were Djiboutian children of the Convention and of their rights?

11. Ms. TIGERSTEDT-TÄHTELÄ said that the population seemed unwilling to recognize children's rights and wondered whether the authorities realized that children's rights issues were of a political nature. She asked if budgetary priority was given to the implementation of the rights flowing from the Convention and whether there were other priorities. What proportion of the budget was earmarked for providing children with health, education, culture and social services?

12. Ms. KARP said that the adoption of a legal text forbidding female genital mutilation in Djibouti marked a major step in the right direction but wondered whether the law was enforced and if people felt that it was of relevance to them. What was the Government doing to change mentalities? She asked why the Family Code bill had not yet been tabled before Parliament even though it had been drafted several years before the State party had ratified the Convention, and wondered whether there had been any discussions on the conformity of the bill with the Convention after the latter's ratification. Was there a person or body that was responsible for reviewing legislation periodically with a view to making amendments and bringing it in line with the Convention?

13. She noted that the State party had not signed most of the human rights instruments, thereby making it difficult to explain the Convention, educate children about their rights or design school curricula involving the Convention, and wondered what the Government's position was in that regard.

14. Since the State party's reservation seemed to have been motivated by a desire to avoid conflict between the Convention and religious law, the Convention could not be fully implemented unless religious leaders were associated with the decision-making process as to which aspects of religious law were compatible with the Convention. Did the State party intend to launch such a process or was one already under way?

15. Mr. RABAH asked whether regular training was offered to local leaders and professionals involved in children's rights, such as judges, lawyers, teachers and civil servants, so as to familiarize them with the Convention, and whether parents and school children were also informed of it.

16. Mr. ABDOU (Djibouti) said that Djibouti applied the principle of the separation of powers; it had a presidential regime in which the President exercised regulatory powers and the legislative power passed laws and approved the budget. There were broad guarantees for the independence of the judiciary, in its justice-dispensing role.

17. Children's issues fell under the competence of various ministries: the office of the Prime Minister, the Ministries of Justice, Youth, Sport and Cultural Affairs and the newly created Ministry for the Promotion of the Family, resulting in overlapping and duplication. Children's issues were not monitored regularly, firstly because the intersectoral committee on follow-up of

the World Summit for Children, chaired by the Prime Minister, met very irregularly and secondly because of the uncertainty as to which ministry was specifically responsible for such matters. In fact, it was UNICEF which coordinated children's rights issues among the ministries.

18. In its reservation, Djibouti had stated that it did not consider itself bound by any provision that ran counter to its traditional values, especially religious ones. However, it should also be stated that it did not support traditional or religious values which were not consistent with the Convention and the position expressed in its reports and replies was of a much softer tone than that of the reservation statement. The delegation promised to draw the attention of the Government to the Committee's comments on the reservation statement and would do its best to have it reviewed.

19. Children visited the Parliament at the start of each parliamentary session, at the initiative of NGOs and the Ministry of Education, to put questions to members of parliament and propose solutions. The authorities would like more to be done, and although everyone agreed that children's rights issues were important, nobody really knew how to give effect to those rights. In that connection, the Committee was invited to visit the country to take stock of the situation, proffer specific proposals and assist the authorities in establishing the necessary infrastructure for dealing with children's issues. The problem in Djibouti was not the lack of political will but ignorance of the issues, lack of training, a shortage of trainers and inadequate resources to analyse and effectively implement the Convention.

20. The authorities had fulfilled their duty in introducing certain provisions of the Convention in domestic legislation. Consequently, the Code of Penal Procedure contained specific provisions relating to juveniles and children; the office of juvenile judge had been created and a number of provisions forbidding neglect of children's rights introduced.

21. International cooperation was mainly with UNICEF, which spoke on the Government's behalf in matters relating to children. The UNICEF study of the situation of children in Djibouti served as a reference; with regard to the proportions of the budget allocated to children's rights, it gave precise figures on the extended vaccination programme and the budgets devoted to combating certain diseases.

22. The Djiboutian Day of the Child had been instituted by presidential decree. On 20 November each year, children participated in shows and debates and children's rights were discussed in the media, in schools and among NGOs, and the previous year was evaluated.

23. The task of familiarizing children with the Convention had only just begun, but radio and television programmes were broadcast in Afar, Somali, Arabic and French to explain the rights of the child. The Convention was being translated into the national languages.

24. The Government had recently organized an education symposium during which the proposal had been made to make education compulsory up to the age of 16. All the recommendations of the symposium would be implemented over the coming months. A school building project had also been drawn up in cooperation with the World Bank.

25. There was now unanimous agreement among decision-makers in the field of children's rights on the prohibition of female genital mutilation. Although it was not practical for the authorities to pursue court proceedings in each case and although more emphasis was placed on prevention and information than repression, the penalties imposed on perpetrators (five years' imprisonment and a 1 million Djibouti franc fine) served as a deterrent. A number of seminars and meetings had taken place recently between public authorities, religious leaders and child rights organizations whose conclusions coincided with the Government's objective of prohibiting the practice. One remarkable step forward was that the cadi of Djibouti, who was the country's highest religious authority, had recently spoken in favour of prohibition. However, only in time would female genital mutilation be completely eradicated in the country.

26. The Family Code had been elaborated with the assistance of a Tunisian expert, seconded by UNICEF, in cooperation with religious leaders, NGOs and the relevant ministers. It had been submitted to the Government for adoption by the Council of Ministers and had, therefore, not yet been enacted. The bill included some provisions of the Convention on the Rights of the Child, thus achieving progress in children's and women's rights, but the legislator had been careful not to offend any religious sensibilities.

27. Djibouti's initial report on the implementation of the Convention had been prepared under the auspices of the intersectoral committee chaired by the Prime Minister, with the participation of NGOs, social partners, UNICEF and the Ministries of Education, Public Health and Social Affairs and Women's Rights. The committee had been discontinued after the publication of the report; it would be useful to create an administrative structure with representation of all those partners.

28. Mr. FULCI said he was pleased that the delegation had decided to examine thoroughly the question of the reservation to the Convention upon its return to Djibouti because he was hard put to understand why the State party had adopted such a rigid position in comparison to other Muslim countries.

29. Concerning the definition of the child, he would like to know the age of majority, especially with regard to medical consent and criminal responsibility.

30. The Committee had received very disturbing information that 29 children, most of them aged 10 to 15, had been imprisoned for five months and tortured. If that was true, why had the children been incarcerated and what had happened to them since?

31. Although the principle of non-discrimination was enshrined in the Constitution of Djibouti, it appeared that girls were still subjected to discrimination; they were kept outside the school system, married earlier and were less favourably treated than boys when it came to inheritance rights. What had the Government done to prevent and combat discrimination against girls and other disadvantaged children such as refugee children, street children, children from the rural areas and those who were disabled?

32. In its initial report, the State party indicated that the right to life was also guaranteed to the unborn child, which was worth pointing out because it was the first time that a State party's report made reference to the rights of the unborn child.

33. Ms. OUEDRAOGO said that the Committee recommended the establishment of a mechanism for monitoring the implementation of the Convention which would fall under the supervision of a Government ministry and which could draw inspiration from the models in other countries.

34. It would be advisable to take punitive measures against perpetrators of female genital mutilation and to follow the examples of other countries in the region which had used various mechanisms such as the hotline established in Burkina Faso to report such practices.

35. She was concerned that NGOs might be subordinated to the State because of its financial backing and wondered about other sources of funding and the functioning of the NGO network.

36. Were traditional means of communication, such as popular music and songs, used to disseminate information about the Convention in Djibouti, especially in rural areas, such as was done in other countries? What role did the religious leaders play in the implementation of the Convention?

37. She invited the Government to consider raising the minimum age for marriage, bearing in mind that the current provision was discriminatory towards girls and tended to encourage early marriages among them.

38. She asked whether legislation forbidding the enlistment of minors in the armed forces had been respected, especially in the light of the conflicts that had broken out in the north of the country.

39. Ms. RILANTONO suggested that the Government could set up an interministerial coordination mechanism whose main role would be to establish the budget for child-related activities and to monitor their implementation. She would like to know what cultural and religious factors might hamper the implementation of the Convention and asked whether women and girls were discriminated against, within the context of the Muslim religion, in other areas besides education which might prevent them from heading associations or organizations, in particular. What effect had the civil war had on children?

40. Ms. TIGERSTEDT-TÄHTELÄ said she was pleased with the Government's efforts to sensitize public opinion on the question of female genital mutilation and seconded Ms. Ouedraogo's suggestion of a helpline.

41. It was essential for children to have a mechanism that would receive their complaints about abuse, transmit such reports to the relevant authorities and offer children advice.

42. Ms. MOKHUANE inquired about the child's right to express his opinion in child custody decisions considering that Islamic law only recognized the authority and responsibility of parents.

43. What was the Government doing to combat all forms of discrimination against the child, in particular ethnic discrimination, and had any cases been brought before the courts in that connection? Bearing in mind the strong racial tensions in the State party, had the Government organized campaigns to promote the principle of non-discrimination?

44. She would be interested to know whether children participated in decision-making in family or juvenile justice matters.

45. The CHAIRPERSON asked how the best interests of the child were taken into account in decisions relating to the family and juvenile justice matters.

46. Mr. ABDOU (Djibouti) said the new Code of Penal Procedure had instituted juvenile magistrates and had set the minimum age for criminal responsibility at 13. In the absence of a birth certificate, judges had the power to estimate the age of the person brought before them and in controversial cases, the person's age was determined by an expert. The examining judge could only issue a detention warrant against an accused minor by special, substantiated decision, and for no more than six months. If it was deemed necessary for a minor to be kept in detention longer than six months, the examining judge or the Attorney-General of the Republic would have to send a request to the criminal court for a decision on the matter. Children under 13 could only be kept in custody and their cases tried in the council chamber when there was no adult co-perpetrator. No court case or decision regarding a minor could be reported in the press and any violation of that provision was liable to a penalty. The States General of Justice, which were due to be held very soon, would present an opportunity for further discussion on the juvenile justice system which ought to give more earnest consideration to the best interests of the child.

47. The principle of non-discrimination was enshrined in the Constitution of Djibouti, a country which was like a haven of peace in the region in comparison to neighbouring States - Eritrea, Ethiopia, Somalia, Sudan - which were all embroiled in war. Consequently, Djibouti received a large number of refugees, including children. Inasmuch as they lived in camps established in the south of the country in cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR), refugee children had access to education and free medical care and experienced no form of discrimination relating to those areas.

48. The Djibouti Government categorically denied recent accusations by political opposition groups according to which street children of Ethiopian nationality had been the victims of ill-treatment and sexual violence while detained. Living in deplorable conditions, the children, aged 15 to 18 according to doctors, and therefore criminally responsible, had been arrested in 1999 because they had been suspected of break-ins and involvement in the sale of drugs. They had been brought before the courts and sentenced in July 1999 to one year's imprisonment in a monitored rehabilitation centre where they had access to education and medical care and could receive family visits. At the end of the awareness-raising campaign launched by the public authorities, the children's sentences had been reduced and they were now free. The Government had informed all parties involved (street children associations, the Ethiopian embassy and UNICEF) that the adolescents had been freed but was unable to say whether they had been taken into care afterwards to avoid a repeat of their situation prior to being arrested.

49. The Government intended to implement the Committee's recommendations, notably the creation of a mechanism for monitoring the implementation of the Convention, an advisory body for children and the strengthening of the use of tradition to disseminate the Convention as popular music and songs already served that purpose. In the mosques religious leaders had started to make children aware of the Convention. A children's ombudsman post had not yet been created but the possibility would be explored once the authority responsible for children's affairs had been put in place.

50. Measures would be taken to bring to justice perpetrators of female genital mutilation and to enable minors to lodge complaints.

51. The soon-to-be-enacted Family Code set the legal age for marriage at 18 for both sexes. The legal age of majority was 18, the minimum age of criminal responsibility was 13 and the legal age of sexual consent was 18; compulsory education was up to age 16.

52. Following the first peace agreement of 1994 which had put an end to the civil war in the north of the country caused by ethnic clashes, pro-child measures, in particular vaccination programmes, had been taken. However, when the conflict had erupted again, minors might have been enlisted on the side of the rebels, even though the minimum legal age for enlistment had been set at 18; that situation no longer existed since the February peace agreements.

53. Ms. OUEDRAOGO said that, in spite of the legislative provisions setting the minimum age for marriage at 18, girls traditionally married at 15; she asked whether awareness-raising programmes had been started to change mentalities and whether, in the implementation of the Beijing Declaration and Platform for Action, measures had been taken to promote the rights and development of girls.

54. Concerning the creation of the ombudsman post, she would like to know what problems had been encountered and how respect for the child's opinion was guaranteed at school and, generally, at the local level.

55. Furthermore, she would be interested to know what measures had been envisaged to eliminate discrimination based on ethnic origin in view of the large number of refugees and the persistent interethnic problems. She wondered if there were plans to launch awareness-raising campaigns, for parents and social workers in particular, for children to be heard and to be considered as true subjects of law.

56. As to the relatively high incidence of infanticide and abortion among prostitutes, she wondered whether it would not be advisable to legalize prostitution and create a mechanism for protecting and helping those women and preventing young girls, who were particularly vulnerable, from falling into the same trap.

57. Lastly, she asked how the Government went about guaranteeing the right to life, survival and development of children in difficult socio-economic circumstances which were exacerbated by the ethnic tensions and whether there was a programme to combat poverty. She would also like to know if programmes existed to teach tolerance to young people so that they did not copy the behaviour of their elders.

58. Ms. RILANTONO said she would be interested to know the measures taken to change religious and cultural practices which prevented girls from fully exercising their rights.

59. Mr. FULCI said he would welcome clarification on reports of continued ill-treatment of detainees by the police or armed forces as the subject was of grave concern to the Committee.

60. Ms. MOKHUANE asked what measures had been taken to protect the employment rights of pregnant women, considering that abortion was illegal, and what provisions existed if any congenital deformity was detected during pregnancy.

61. Mr. ABDOU (Djibouti) said that there was some confusion about the minimum legal age for marriage because of traditions according to which a girl could marry as early as 15; but that was not a legal marriage. It was not enough to enact a law, which was why a programme aimed at sensitizing the population had been launched jointly by UNICEF, the Ministry of Education and the Ministry of Communication. The Government hoped that once the childcare authority had been established it would be possible to accomplish more in that regard and would spare no effort to combat discrimination with the means it had at its disposal, limited though they might be. Its primary aim was to ensure that all groups of the population knew their rights and understood that discriminatory behaviour was intolerable. The awareness-raising campaign was directed primarily at religious leaders and traditional authorities.

62. The implementation of the right to life, survival and development was marking progress despite the problems related to the regional environment and despite a very trying socio-economic and cultural context.

63. Many Djiboutians thought that the prohibition of prostitution was a mistake because it made it difficult to control a practice which, although it had become clandestine, had increased considerably. It had been proposed, in particular to the Ministry of Justice, to legalize prostitution while still prohibiting soliciting in order for the health and epidemiological services to intervene and to counsel and assist prostitutes. The idea was gaining ground and measures were expected to be taken shortly to reduce prostitution drastically.

64. The rights of the child and the family, including inheritance rights, were governed by Shariah law for the Muslim population. For Christians, who were in the minority, common law applied. That was one of the reasons for the disparities observed. The Family Code was taking some time to be enacted because of some outstanding issues on which opinions differed. In practice, however, girls and women were playing a more important role in society, especially in the magistrature. The president of the Supreme Court was a woman, who recently had not hesitated to sentence a cadi who had been found guilty of misappropriation of funds, even though he had invoked Shariah law to refuse to answer her questions on the grounds that she was a woman.

65. The World Bank and other donors participated in poverty eradication programmes aimed mainly at rehabilitating demobilized soldiers and offering micro-credit.

66. Awareness-raising activities were carried out via the media and by teachers (and textbooks) to change mentalities and promote the idea of taking the child's opinion into account.

67. If judges noted the slightest signs of ill-treatment on arrested persons brought before them, they released them right away. They visited prisons periodically, as did the Red Cross, which reported to them on its findings; measures were taken immediately to stop any ill-treatment observed. The information concerning minors was unfounded; no minor had been mistreated in prison.

68. With regard to measures ensuring the right to life, the death penalty had been abolished after the enactment of the new Penal Code. Abortion was prohibited except on clearly stipulated medical grounds. Finally, in cooperation with NGOs, childcare bodies along with the Ministry for Women's Affairs and the Ministry of Public Health and Social Affairs had elaborated a national strategy for implementing the Beijing Declaration and Platform for Action.

The meeting rose at 1 p.m.